


BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

3-13-14

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Order Instituting Rulemaking into Policies to Promote a Partnership Framework between Energy Investor Owned Utilities and the Water Sector to Promote Water-Energy Nexus Programs.	Rulemaking 13-12-011 (Filed December 12, 2013)
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**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
AND, IF REQUESTED (and ☒¹ checked), ADMINISTRATIVE LAW JUDGE'S
RULING ON NATURAL RESOURCES DEFENSE COUNCIL'S SHOWING OF
SIGNIFICANT FINANCIAL HARDSHIP**

Customer (party intending to claim intervenor compensation):	
Assigned Commissioner: Michael Peevey	Assigned ALJ: Todd Edmister
I hereby certify that the information I have set forth in Parts I, II, III and IV of this Notice of Intent (NOI) is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this NOI and has been served this day upon all required persons.	
Signature:	/s/ Lara Ettenson
Date: 03-13-14	Printed Name: Lara Ettenson

PART I: PROCEDURAL ISSUES

(To be completed by the party ("customer") intending to claim intervenor compensation)

A. Status as "customer" (see Pub. Util. Code § 1802(b)): The party claims "customer" status because the party is (check one):	Applies (check)
1. A Category 1 customer that is an actual customer whose self-interest in the proceeding arises primarily from his/her role as a customer of the utility and, at the same time, the customer must represent the broader interests of at least some other customers. In addition to describing your own interest in the proceeding you must show how your participation goes beyond just your own self-interest and will benefit other customers. See, for example, discussion in D.08-07-019 at 5-10.	

¹ DO NOT CHECK THIS BOX if a finding of significant financial hardship is not needed (in cases where there is a valid rebuttable presumption of eligibility (Part III(A)(3)) or significant financial hardship showing has been deferred to the intervenor compensation claim).

<p>2. A Category 2 customer that is a representative who has been authorized by actual customers to represent them. Category 2 involves a more formal arrangement where a customer or a group of customers selects a more skilled person to represent the customer's views in a proceeding. A customer or group of customers may also form or authorize a group to represent them, and the group, in turn, may authorize a representative such as an attorney to represent the group. A representative authorized by a customer must identify the residential customer(s) being represented and provide authorization from at least one customer (D.98-04-059 at 30).</p>	
<p>3. A Category 3 customer that is a formally organized group authorized, by its articles of incorporation or bylaws to represent the interests of residential customers or small commercial customers receiving bundled electric service from an electrical corporation.² Certain environmental groups that represent residential customers with concerns for the environment may also qualify as Category 3 customers, even if the above requirement is not specifically met in the articles or bylaws.</p>	X
<p>4. The party's explanation of its customer status must include the percentage of the intervenors members who are residential ratepayers or the percentage of the intervenors members who are customers receiving bundled electric service from an electrical corporation, and must include supporting documentation: (i.e., articles of incorporation or bylaws).</p> <p>NRDC falls within the third category listed in Section 1802(b) because it is a "representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers...."</p> <p>NRDC is a non-profit membership organization with a long-standing interest in minimizing the societal costs of the reliable energy services that a healthy California economy requires. We have participated in numerous California Public Utilities Commission proceedings over the last 25 years with a particular focus on representing our California members' interest in the utility industry's delivery of cost-effective energy efficiency programs, renewable energy resources, and other sustainable energy alternatives. The majority of our California members are residential customers.</p> <p>NRDC is a formally organized group authorized pursuant to our bylaws to represent the interests of our members, nearly all of whom are residential customers. NRDC's bylaws state in Section 1.02(a) that: "Individual membership in the Corporation shall constitute an authorization for the Corporation to represent members' interests in regulatory and judicial proceedings within the scope of the activities of the Corporation." The Certificate of Incorporation of the Natural Resources Defense Council, Inc., states that: "The purposes for which the corporation is formed are: To preserve, protect and defend natural resources, wildlife and environment against encroachment, misuse and destruction" and "[t]o take whatever legal steps may be appropriate and proper to carry out the foregoing purposes." Attachment 1 includes the relevant section of the Certificate. The relevant section of the bylaws is included in Attachment 2. Over 80,000 of NRDC's members live and purchase utility services in California. NRDC's members are dispersed throughout the state and the</p>	

² Intervenors representing either a group of residential customers or small commercial customers who receive bundled electric service from an electrical corporation, must indicate in Part I, Section A, Item #4 of this form, the percentage of their members who are residential customers or the percentage of their members who receive bundled electric service from an electrical corporation. The NOI may be rejected if this information is omitted.

<p>majority of these members are residential customers of Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, or San Diego Gas and Electric Company. This qualifies NRDC as a Category 3 customer pursuant to Section 1802(b) of the Public Utilities Code.</p> <p>The interests of the customer represented by NRDC are unique and are not adequately represented by other parties that have intervened in the case. NRDC's members highly prioritize the need to preserve environmental quality while minimizing the societal costs of providing electric service through energy efficiency, renewable resources, and other cost-effective alternative energy resources.</p> <p>In D. 98-04-059, page 29, footnote 14, the Commission reaffirmed its "previously articulated interpretation that compensation be proffered only to customers whose participation arises directly from their interests as customers." The Commission explained that "With respect to environmental groups, we have concluded they were eligible in the past with the understanding that they represent customers whose environmental interests include the concern that, e.g., regulatory policies encourage the adoption of all cost-effective conservation measures and discourage unnecessary new generating resources that are expensive and environmentally damaging. (D.88-04-066, mimeo, at 3.) They represent customers who have a concern for the environment which distinguishes their interests from the interests represented by Commission staff, for example." Consistent with this articulation, NRDC represents customers with a concern for the environment that distinguishes their interests from the interests represented by other consumer advocates who have intervened in this case.</p>
Identify all attached documents in Part IV.
<ul style="list-style-type: none"> • Do you have any direct economic interest in outcomes of the proceeding?³ If so, explain: NO

B. Conflict of Interest (§ 1802.3)	Check
1. Is the customer a representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. If the answer to the above question is "Yes", does the customer have a conflict arising from prior representation before the commission?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)):	Check
1. Is the party's NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: February 11, 2014	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

³ See Rule 17.1(e).

2. Is the party's NOI filed at another time (for example, because no Prehearing Conference was held, the proceeding will take less than 30 days, the schedule did not reasonably allow parties to identify issues within the timeframe normally permitted, or new issues have emerged)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2a. The party's description of the reasons for filing its NOI at this other time: N/A	
2b. The party's information on the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, ALJ ruling, or other document authorizing the filing of NOI at that other time: N/A	

PART II: SCOPE OF ANTICIPATED PARTICIPATION

(To be completed by the party ("customer") intending to claim intervenor compensation)

A. Planned Participation (§ 1804(a)(2)(A)(i)):
<ul style="list-style-type: none"> The party's statement of the issues on which it plans to participate. NRDC will participate in all aspects of the preliminary scope, including – but not limited to – the development of a cost-effectiveness framework for analyzing the value of energy and water efficiency programs that save energy and water simultaneously, integration of strategies for overcoming barriers to joint funding between water and energy utilities, and coordination among other relevant CPUC proceedings. The party's explanation of how it plans to avoid duplication of effort with other parties. To the extent possible, when there are overlapping efforts, concerns, and recommendations, NRDC will coordinate its participation with other parties to avoid duplication, work out issues ahead of time when possible, and utilize joint comments as an advocacy option whenever possible. The party's description of the nature and extent of the party's planned participation in this proceeding (to the extent that it is possible to describe on the date this NOI is filed). NRDC will participate in all workshops, hearings, and related meetings as well as submit comments.

B. The party's itemized estimate of the compensation that the party expects to request, based on the anticipated duration of the proceeding (§ 1804(a)(2)(A)(ii)):				
Item	Hours	Rate \$	Total \$	#
ATTORNEY, EXPERT, AND ADVOCATE FEES				
Ed Osann	100	\$195	\$19,500.00	1
Lara Ettenson	100	\$165	\$16,500.00	2

<i>Subtotal: \$</i>				
OTHER FEES - N/A				
<i>Subtotal: \$ N/A</i>				
COSTS – N/A				
[Item 2]				
<i>Subtotal: \$ N/A</i>				
TOTAL ESTIMATE: \$				
<p>Estimated Budget by Issues:</p> <p>75% related to development of cost-effectiveness framework; 20% related to developing strategies to overcome barriers; and 5% related to aligning policies in this proceeding with other relevant water and energy proceedings at the CPUC.</p> <p>Comments/Elaboration (use reference # from above):</p> <p>NRDC expects to be an active participant in this proceeding, although it is difficult to estimate with certainty the magnitude of our expected request at this early stage of the proceeding. The amount of any future claim to compensation is dependent upon the Commission's final decision in this proceeding, as well as the resources NRDC has to devote to this proceeding going forward.</p> <p>The rates above are reasonable because the energy project staff in NRDC's San Francisco office have participated in Commission proceedings for over 40 years and have extensive experience in promoting reliable, affordable energy services at the lowest environmental impact. The Commission's recognition of NRDC's role as a leading stakeholder has been demonstrated by repeated invitations to appear at full panel hearings. Public Utilities Code § 1806 directs the Commission to consider "the market rates paid to persons of comparable training and experience who offer similar services" when computing a compensation award.</p> <p>The rates requested by NRDC for its expert staff are consistent with D.07-01-009 (which established rate ranges for experts based on years of experience), with D.08-04-010 (which provides considerations for establishing rates for new representatives), and with Resolution ALJ-287, April 29, 2013. We have revised our requested rates to be consistent with the Commission-adopted rate ranges, but continue to request conservative rates at the low ends of those ranges in addition to being extremely conservative with amount of time we claim.</p> <p><u>Comment #1:</u> Ed Osann has over 25 years of relevant experience and extensive expertise on urban water use efficiency. Mr. Osann represents NRDC before the Department of Energy, CPUC, state legislature, and in other fora. We claim \$195 for 2013 as a place holder, which is the same as that claimed in our January 14, 2013 request in A.10-07-007/A.11-09-016. That claim has yet to be reviewed and we therefore reserve the right to adjust Ed's 2013 rate at the time we file a request in this proceeding.</p> <p><u>Comment #2:</u> Lara Ettenson is the Director of CA Energy Efficiency Policy and represents NRDC at the CPUC, CEC, and at the state legislature. Ms. Ettenson has 8 years of experience and therefore requests a rate of \$165, which is at the low band of Resolution ALJ-287, April 29, 2013.</p>				

When entering items, type over bracketed text; add additional rows to table as necessary.
 Estimate may (but does not need to) include estimated Claim preparation time. Claim preparation is compensated at ½ professional hourly rate.

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

(To be completed by party (“customer”) intending to claim intervenor compensation;
 see Instructions for options for providing this information)

A. The party claims “significant financial hardship” for its Intervenor Compensation Claim in this proceeding on the following basis:	Applies (check)
1. “[T]he customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation” (§ 1802(g)); or	
2. “[I]n the case of a group or organization, the economic interest of the Individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding” (§ 1802(g)).	X
3. A § 1802(g) finding of significant financial hardship in another proceeding, made within one year prior to the commencement of this proceeding, created a rebuttable presumption in this proceeding (§ 1804(b)(1)).	
ALJ ruling (or CPUC decision) issued in proceeding number: A.10-07-007 and A.11-09-016 Date of ALJ ruling (or CPUC decision): February 21, 2013 (Over a year ago, hence requesting a new ruling for renewed showing of financial hardship.)	

B. The party’s explanation of the factual basis for its claim of “significant financial hardship” (§ 1802(g)) (necessary documentation, if warranted, is attached to the NOI):
The economic interest of individual NRDC members is small when compared to the costs of effective participation. NRDC is representing the interests of its members in California who are customers of utilities under the jurisdiction of the Commission. These customers share an interest in the environmental and economic impacts of this proceeding. While some of these California-resident members may eventually experience lower and/or more stable electricity bills because of NRDC’s contribution in this proceeding that affect the design, implementation, and review of the state’s water-energy efficiency programs and related regulatory policies that will best promote viable and cost-effective water-energy efficiency measures, the economic interest represented by such savings is very small in comparison to the expenses incurred by the organization to present its views in this proceeding.

**PART IV: ATTACHMENTS DOCUMENTING SPECIFIC
 ASSERTIONS MADE IN THIS NOTICE**

(The party (“customer”) intending to claim intervenor compensation
 identifies and attaches documents; add rows as necessary)

Attachment No.	Description
1	Certificate of Incorporation
2	Bylaws

ADMINISTRATIVE LAW JUDGE RULING⁴
(ALJ completes)

1. The Notice of Intent (NOI) is rejected for the following reasons:	
a. The NOI has not demonstrated the party's status as a "customer" for the following reason(s):	
b. The NOI has not demonstrated that the NOI was timely filed (Part I(B)) for the following reason(s):	
c. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s):	
2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above).	
3. The NOI has not demonstrated significant financial hardship for the following reasons.	
4. The ALJ provides the following additional guidance (see § 1804(b)(2)):	

IT IS RULED that:

1. The Notice of Intent is rejected.	
2. Additional guidance is provided to the customer as set forth above.	
3. The customer has satisfied the eligibility requirements of Pub. Util. Code § 1804(a).	
4. The customer has shown significant financial hardship.	
5. The customer is preliminarily determined to be eligible for intervenor compensation in this proceeding. However, a finding of significant financial hardship in no way ensures compensation.	

Dated _____, at San Francisco, California.

Administrative Law Judge

⁴ An ALJ Ruling needs not be issued unless: (a) the NOI is deficient; (b) the ALJ desires to address specific issues raised by the NOI (to point out similar positions, areas of potential duplication in showings, unrealistic expectations for compensation, or other matters that may affect the customer's Intervenor Compensation Claim); or (c) the NOI has included a claim of "significant financial hardship" that requires a finding under § 1802(g).

Attachment 1: Certificate of Incorporation

CERTIFICATE OF INCORPORATION
OF NATURAL RESOURCES DEFENSE COUNCIL, INC.

Pursuant to the Membership Corporations Law

We, the undersigned, for the purpose of forming a membership corporation, pursuant to the Membership Corporations Law of the State of New York, do hereby certify as follows:

FIRST: The name of the corporation shall be Natural Resources Defense Council, Inc.

SECOND: The purposes for which the corporation is to be formed are:

To preserve, protect and defend natural resources, wildlife and environment against encroachment, misuse and destruction.

To conduct research and to collect, compile and publish facts, information and statistics concerning natural resources, wildlife and environment and to conduct public education programs with respect thereto.

To take whatever legal steps may be appropriate and proper to carry out the foregoing purposes.

Attachment 2: Relevant Bylaws

AMENDED AND RESTATED BY-LAWS
of
NATURAL RESOURCES DEFENSE COUNCIL, INC.
A New York Not-for-Profit Corporation
(as amended through December 9, 1999)

ARTICLE I.

Members

Section 1.01. Membership Qualification. Membership in the Corporation shall be open to such persons, corporations, partnerships and other organizations as may be determined by the Board of Trustees.

Section 1.02. Classes of Members. The Corporation shall have such classes of members as are provided for in or pursuant to these By-Laws.

(a) Individual, Family and Honorary Members. The Corporation shall have the following classes of members: Individual Members, Family Members and Honorary Members. Each Individual Member shall be entitled to one vote, Family Members shall be entitled to one vote per family and Honorary Members shall not be entitled to vote. Individual Membership in the Corporation shall constitute an authorization for the Corporation to represent members' interests in regulatory and judicial proceedings within the scope of the activities of the Corporation.

(b) Other Classes of Members. The Board of Trustees may from time to time create other classes of membership,

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